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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. [redacted] 647

GICHNER IRON WORKS, INC., *Petitioner*

v.

HELEN HANNA AND CICERO HANNA, *Respondents*

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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OCTOBER TERM, 1958

No. 657

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondents Helen Hanna and Cicero Hanna desire to submit the following statement in opposition to the petition for writ of certiorari.

STATEMENT IN OPPOSITION

The petition for a writ of certiorari should be denied. The question presented is clearly frivolous.

Petitioner has suffered two adverse judgments from the Court of Appeals. Following the first judgment by the Court of Appeals, sitting *en banc*, petitioner raised the same argument now advanced in support of its present petition. Its petition for certiorari was then found wanting. *Gichner Iron Works, Inc.* v. *Hanna*, 351 U.S. 981 (1956). Following the second judgment, by a divided panel of the Court of Appeals,

petitioner sought rehearing *en banc* in the Court below. Its motion failed. (App. 41a).

Since there exists a lack of unanimity in the Circuit Court of Appeals petitioner suggests a review by this Court. This, however, is a clearly inadequate ground for the exercise of certiorari jurisdiction unless this Court were to adopt the novel view that lack of unanimity in the Court below is in itself sufficient reason for the exercise of certiorari jurisdiction.

On the occasion of both hearings in the Court of Appeals that Court was properly constituted. (App. 1a, 13a, 39a), 28 U.S.C. §§ 46, 47.

Both opinions of the Court of Appeals deal with matters of local tort law in the District of Columbia, a subject which this Court has repeatedly declared to be within the peculiar province of the Court of Appeals for the District of Columbia Circuit. *DelVecchio* v. *Bowers*, 296 U.S. 280, 285 (1935); *District of Columbia* v. *Pace*, 320 U.S. 698, 702 (1944); *Busby* v. *Electric Utilities Union*, 323 U.S. 72, 75 (1944).

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